



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE
4949-A Cox Road, Glen Allen, Virginia 23060
(804) 527-5020 FAX (804) 527-5106
www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director
(804) 698-4000

James Golden
Regional Director

**STATE WATER CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
ADVANSIX INC
FOR THE
HOPEWELL PLANT
VPDES Permit No. VA0005291**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and AdvanSix Inc., regarding the AdvanSix Hopewell Facility, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10.
6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. "EPA" means Environmental Protection Agency.
8. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
9. "Facility" means the Plant located at 905 East Randolph Street, Hopewell, Virginia, which discharges effluent from AdvanSix's business operations. The Facility has multiple outfalls including Outfall 001, Outfall 002, and Outfall 003.
10. "AdvanSix" means AdvanSix Inc., a limited liability company authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. AdvanSix is a "person" within the meaning of Va. Code § 62.1-44.3.
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
12. "O&M" means operations and maintenance.
13. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
14. "Permit" means VPDES Permit No. VA0005291, which was issued under the State Water Control Law and the Regulation to AdvanSix on August 1, 2016 and which expires on July 31, 2021.
15. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.

16. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.
17. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
18. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
19. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
20. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
21. "TMDL" means total maximum daily load.
22. "Va. Code" means the Code of Virginia (1950), as amended.
23. "VAC" means the Virginia Administrative Code.
24. "VPDES" means Virginia Pollutant Discharge Elimination System.

SECTION C: Findings of Fact and Conclusions of Law

1. AdvanSix owns and operates the Facility in Hopewell, Virginia. The Permit allows AdvanSix to discharge non-contact cooling water and cooling tower blowdown, and stormwater from the Facility, to Gravelly Run, a tributary of the James River, via Outfall 002 in strict compliance with the terms and conditions of the Permit.
2. Gravelly Run is located in the James River Basin. During the 2016 305(b)/303(d) Water Quality Assessment, nontidal Gravelly Run was assessed as a Category 2B waterbody. The Fish Consumption Use is fully supporting with observed effects due to a

VDH fish consumption advisory for kepone. The Recreation-, Aquatic Life-, and Wildlife Uses were not assessed. Gravelly Run is considered a Tier 1 water.

3. AdvanSix is within the study area for the James River and Tributaries – Hopewell to Westover Bacterial TMDL (EPA approval July 10, 2008, SWCB approval April 28, 2009). The discharge was included in the TMDL but is not currently assigned an E. coli wasteload allocation because it is not considered to be a source of E. coli bacteria. The Facility was also addressed in the Chesapeake Bay TMDL, which was approved by the EPA on December 2, 2010. The TMDL allocates loads for total nitrogen, total phosphorus, and total suspended solids to protect the dissolved oxygen and SAV criteria in the Chesapeake Bay and its tidal tributaries. AdvanSix - Hopewell is considered a significant nutrient discharger and was included in the aggregated loads for significant wastewater dischargers in the lower tidal freshwater James River estuary (JMSTF1).
4. On October 12, 2017, AdvanSix discovered there was an unauthorized discharge of phenol to outfall 002.
5. On October 13, 2017, DEQ was notified by AdvanSix of an ongoing fish kill in Gravelly Run, Hopewell. DEQ responded and observed 1451 dead and moribund fish.
6. On October 17, 2017, AdvanSix submitted a five day letter with a description of events that led to the discharge. AdvanSix stated that the discharge occurred during start-up of a piece of heat transfer equipment in the phenol purification area (Area 6). The discharge then entered a clear water surface drain located within Area 6. A majority of the loading was discharged during a sixty minute period from 3:30 PM to 4:30 PM.
7. AdvanSix's O&M manual did not detail the practices and procedures which should be followed during the start-up of equipment to ensure compliance with its permit. In addition, AdvanSix did not handle the phenol in a manner consistent with best management practices to prevent a discharge of the product to state waters.
8. On November 7, 2017, AdvanSix submitted a letter providing additional investigation conclusions and corrective actions resulting from a thorough formal investigation of the event using Apollo Root Cause Analysis.
9. On November 9, 2017, DEQ issued NOV No. W2017-11-P-0001 to AdvanSix for the violations listed above.
10. On November 30, 2017, the Department held a conference with AdvanSix to discuss the NOV.
11. On December 7, 2017, AdvanSix repaired the leaking tube in Heat Exchanger unit HE-298 and re-rolled a row of tubes in the unit that were leaking at the tube to tube sheet joints. The A-6 condensate receivers HT-97 and HT-57, which normally pump condensate back to the powerhouse deaerators for steam regeneration, are now automatically diverted to the process sewer if the conductivity measures high and can be

operated manually during start-up. In addition, the connection to the clear water sewer was physically removed.

12. On December 15, 2017, AdvanSix completed an investigation into historical records to determine whether there were additional condensate lines going to clear water sewers across the rest of the Facility. Two additional condensate tanks with automatic blowdowns leading to clear sewer drains were discovered and addressed.
13. On January 15, 2018, AdvanSix completed development of an Abnormal Sample Procedure which requires additional analysis be completed and samples retained during a potential non-compliant discharge. The procedure supports escalation points for both instantaneous and composite TOC concentrations.
14. On February 27, 2018 AdvanSix submitted a list of corrective actions to address deficiencies discovered during the phenol discharge investigation. Some of the action items were completed as described above in Section C10 & C11 above. Other action items were listed with anticipated completion dates.
15. On June 15, 2018, AdvanSix developed and later trained staff to use a Gas Chromatograph (GC) method that can be completed at any time to reliably identify process wastewater in river water.
16. On June 12, 2018, AdvanSix completed an evaluation of in-line ultraviolet technology monitoring at Outfall 002 for the specific use of identifying organic compounds in wastewater and determined that the ultraviolet technology would not improve spill response activities.
17. Va. Code § 62.1-44.5 (A) states "[e]xcept in compliance with a certificate or permit issued by the Board or other entity authorized by the Board to issue a certificate or permit pursuant to this chapter, it shall be unlawful for any person to: 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; 2. Excavate in a wetland; 3. Otherwise alter the physical, chemical or biological properties of state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses"
18. The Regulation, at 9 VAC 25-31-50, states "Prohibitions. A. Except in compliance with a VPDES permit, or another permit issued by the Board or other entity authorized by the Board, it shall be unlawful for any person to 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; 2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses."
19. Part II.F of the VPDES Permit VA0005291 states "Except in compliance with this permit, or another permit issued by the Board, it shall be unlawful for any person to: 1.

Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or 2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses."

20. Part I.A.7 of the VPDES Permit VA0005291 states "During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number 002 (once through, non-contact cooling water; cooling tower blowdown; emergency deluge system; and stormwater)."
21. Part I.C.2 of the VPDES Permit VA0005291 states "The permittee shall maintain a current Operations and Maintenance (O&M) Manual for the treatment works that is in accordance with Virginia Pollutant Discharge Elimination System Regulations, 9VAC25-31 and Sewage Collection and Treatment Regulations, 9VAC25-790. The O&M Manual and subsequent revisions shall include the manual effective date and meet Part II.K.2 and Part II.K.4 Signatory Requirements of the permit. Any changes in the practices and procedures followed by the permittee shall be documented in the O&M Manual within 90 days of the effective date of the changes. The permittee shall operate the treatment works in accordance with the O&M Manual and shall make the O&M manual available to Department personnel for review during facility inspections. Within 30 days of a request by DEQ, the current O&M Manual shall be submitted to the DEQ Regional Office for review and approval. The O&M manual shall detail the practices and procedures which will be followed to ensure compliance with the requirements of this permit."
22. Part I.C.15 of the VPDES Permit VA0005291 states "Any and all product, materials, industrial wastes, and/or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, and/or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of, and/or stored in such a manner and consistent with Best Management Practices, so as not to permit a discharge of such product, materials, industrial wastes, and/or other wastes to State waters, except as expressly authorized."
23. 9 VAC 25-260-20(A) states "State waters, including wetlands, shall be free from substances attributable to sewage, industrial waste, or other waste in concentrations, amounts, or combinations which contravene established standards or interfere directly or indirectly with designated uses of such water or which are inimical or harmful to human, animal, plant, or aquatic life." 9VAC25-260-140(A) states "Instream water quality conditions shall not be acutely or chronically toxic except as allowed in 9VAC25-260-20 B (mixing zones)."
24. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.
25. The Department has issued no water discharge permits or certificates to AdvanSix other than VPDES Permit No. VA0005291.

26. Gravelly Run is a surface water located wholly within the Commonwealth and is a “state water” under State Water Control Law.
27. Based on the results of October 17, 2017 fish kill investigation, the November 30, 2017 meeting, and the documentation submitted on February 27, 2018 and April 4, 2018, the Board concludes that AdvanSix has violated the Permit and/or Va. Code 62.1-44.5, 9 VAC 25-31-50A, VPDES Permit VA0005291 Part I.A.7, Part I.C.2, Part I.C.15, Part II.F, 9 VAC 25-260-20(A), and 9 VAC 25-250-140(A) by discharging industrial wastes from the Facility while concurrently failing to comply with the conditions of the Permit, as described above.
28. AdvanSix has submitted documentation that verifies that the issues leading to the fish kill described above have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders AdvanSix, and AdvanSix agrees to pay a civil charge of \$51,885 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier’s check payable to the “Treasurer of Virginia,” and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

AdvanSix shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, AdvanSix shall be liable for attorneys’ fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of AdvanSix for good cause shown by AdvanSix, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized

by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, AdvanSix admits to the jurisdictional allegations, and agrees not to contest but neither admits nor denies, the findings of fact and conclusions of law in this Order.
4. AdvanSix consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. AdvanSix declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by AdvanSix to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. AdvanSix shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. AdvanSix shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. AdvanSix shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and AdvanSix. Nevertheless, AdvanSix agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after AdvanSix has completed all of the requirements of the Order;
 - b. AdvanSix petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to AdvanSix.

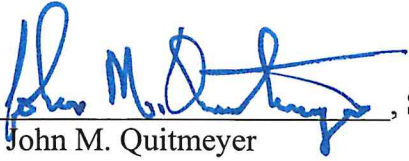
Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve AdvanSix from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by AdvanSix and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of AdvanSix certifies that he or she is a responsible official [or officer] authorized to enter into the terms and conditions of this Order and to execute and legally bind AdvanSix to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of AdvanSix.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, AdvanSix voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2019.

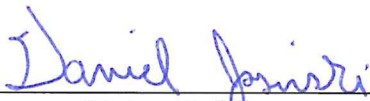
James J. Golden
Department of Environmental Quality
Piedmont Regional Director

AdvanSix Inc. voluntarily agrees to the issuance of this Order.

By: , Senior VP, General Counsel and Corporate Secretary
John M. Quitmeyer
Date: November 5, 2019

State of New Jersey
City/County of Morris

The foregoing document was signed and acknowledged before me this 5th day of November, 2019 by John M. Quitmeyer who is the Senior Vice President, General Counsel and Corporate Secretary of AdvanSix Inc., on behalf of the company.


Notary Public
NS: 2399351
Registration No.

My commission expires: August 12, 2020

Notary seal:

